

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Crim No. 00-cr-066-01-SM

Keone Pierce

ORDER

The defendant moves to reduce his sentence based upon a pending amendment to the Federal Sentencing Guidelines regarding crack cocaine offenses (document no. 94). For the following reasons, the defendant's motion is stayed until after the proposed effective date of the pending guideline amendment.

On June 30, 2011, the United States Sentencing Commission determined to give retroactive effect to the permanent guideline amendment regarding crack cocaine offenses (Parts A and C of Amendment 750). This amendment implemented the emergency directives in section 8 of the Fair Sentencing Act of 2010. Absent congressional action to the contrary, retroactivity of the guideline amendment becomes effective November 1, 2011, at which time sentence reductions based on the retroactive application of the crack cocaine amendment will be authorized. It is yet to be determined, however, whether Congress will take action on the proposed guideline amendment.

Thus, because the defendant is seeking a sentence reduction based upon a guideline amendment that may or may not take effect on November 1, 2011, his motion for a sentence reduction shall be stayed at this time. Should the guideline amendment take effect on November

1, 2011, the court will consider the merits of the defendant's motion after that date and will order the government to respond if necessary. To the extent the defendant is correct that he would be authorized for immediate release should he be deemed eligible for a sentence reduction pursuant to the guideline amendment, the court will address this motion on an expedited basis after the guideline amendment's effective date.

So ordered.

September 7, 2011

/s/ Daniel J. Lynch
Daniel J. Lynch
U.S. Magistrate Judge

cc: Keone Pierce, pro se
Counsel of Record